IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2234 OF 2007
IN
APPEAL (L) NO.538 OF 2007
IN
SUIT NO.1819 OF 1996

Shantaram Damodar Patil ..Appellant
Vs.
Taher K.Aligiwala ..Respondent

Mr.Anil Singh i/b.S.S.Jinsiwala for the Appellant.
Mr.Pankaj Datar i/b. Pankaj J.Das for the Respondent.

CORAM :- DR.S.RADHAKRISHNAN &
ANOOP V.MOHTA,JJ.
DATE : 29TH NOVEMBER,2007

P.C.

1. Heard the learned Counsel for the parties. We have perused the Affidavit-in-support of the Notice of Motion as well as the Affidavit-in-reply. It appears, that the Appellant was pursuing a wrong remedy by filing a Notice of Motion for setting aside the exparte decree, wherein the Appellant had lost almost two years. For the reasons stated in the Affidavit-in-support of the Notice of Motion, sufficient cause is made out for condoning the delay. There is no case of inaction, negligence or want of bonafide on the part of the Appellant. Hence, the Notice of Motion is made absolute in terms of prayer clause (a).

2. The Appellant shall pay the costs quantified at Rs.2000/- (Rs.two thousand only) to the Respondent.

(ANOOP V.MOHTA,J.) **(DR.S.RADHAKRISHNAN,J.)**